IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO.6/2003

STATE
through Police Inspector,
Panaji Police station,
Panaji, Goa. ... Appellant.

V/s.

Rosario Rodrigues,
S/o. Francisco Rodrigues,
R/o. Flat No.1, Edson Apts.,
Post Caranzalem, Goa. ... Respondent.
Accused.

Mr. S. N. Sardessai, Public Prosecutor for the State/ Appellant.

CORAM : P.V. HARDAS, J.

DATE : FEBRUARY 6, 2003.

ORAL ORDER :

This appeal has been filed challenging the acquittal of the respondent for the offences punishable under Sections 279, 304-A of the Indian Penal Code and Section 134(a) and (b) of the Motor Vehicles Act, 1988. The learned Judicial Magistrate, First Class, Panaji by Judgment dated 30th August, 2002, in Criminal Case No.54/99/B, had acquitted the accused.

2. The pivot of the prosecution rests upon the sole testimony of PW.1 Suresh Kambli who claims to be an eye witness in respect of the accident, by which the vehicle of the present respondent had knocked down the Kinetic Honda Scooter driven by the deceased. The deceased succumbed to her injuries. Learned trial Court

was not impressed with the testimony of PW.1 Suresh Kambli, as according to the learned trial Court, PW.1 did not inform the police about the incident and his statement came to be recorded by the police 10 to 12 days after the incident. From the evidence of this witness, it appears that even before his statement came to be recorded by the police, he had met the relatives of the deceased and had disclosed the incident to them and at the request of the relatives of the deceased, his statement came to be recorded by the police. Apart from the evidence of this witness, there is no other circumstantial evidence to connect the accused with the crime. The learned trial Court has given benefit of doubt and has given cogent reasons for not relying on the testimony of PW.1. The learned trial Court, therefore, acquitted the accused.

3. I have heard learned Public Prosecutor on behalf of the State. I have perused the Judgment and the Record and Proceeding of the case. Learned trial Court has given cogent reasons for rejecting the testimony of PW.1. This is an appeal against acquittal and no grounds are made out for interfering with the order of acquittal. The appeal is devoid of any merit and the same is dismissed in limine.

P.V. HARDAS, J.

ssm.